

**RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #09-56**

**Millstone Borough, Somerset County**

WHEREAS, on December 30, 2008, Millstone Borough, Somerset County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on February 9, 2009, the Borough published notice of its petition in the *Courier News*, which is the newspaper of general circulation within the county; and

WHEREAS, one objection to the plan was received by COAH during the 45-day objection period, which ended April 13, 2009; and

WHEREAS, mediation was held and concluded on May 26, 2009; and

WHEREAS, as a result of mediation, the Borough re-petitioned COAH for substantive certification on July 6, 2009; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on July 29, 2009, the Borough published notice of its re-petition in the *Courier News*; and

WHEREAS, one objection to the plan was received by COAH during the 45-day objection period, which ended September 21, 2009; and

WHEREAS, the sole objector has withdrawn its objection to the Borough's petition; and

WHEREAS, the Borough's fair share plan addresses a total 1987-2018 affordable housing obligation of 27 units, consisting of a two-unit rehabilitation share, 21-unit prior round obligation and a four-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, the Borough proposes to address its two-unit rehabilitation share with two new construction units to be completed in the VanCleaf inclusionary development; and

WHEREAS, the Borough proposes to address its 21-unit prior round obligation with ten credits and six rental bonuses for ten family rental units in the VanCleaf inclusionary development; and five credits for five age-restricted sale units in the VanCleaf inclusionary development; and

WHEREAS, Millstone proposes to address its four-unit projected growth share obligation with two credits and one rental bonus for two family rental units in the VanCleaf inclusionary development; and one credit for one family rental unit in the VanCleaf inclusionary development; and

WHEREAS, Millstone Borough entered into a mediation agreement with VanCleaf Family Limited Partnership and Riverside, L.L.C. on October 19, 2009; and

WHEREAS, Millstone Borough and VanCleaf have agreed upon a second option for the satisfaction of the Borough's total 1987-2018 affordable housing obligation; and

WHEREAS, the Borough has granted VanCleaf the ability to choose which option it will build to satisfy the Borough's obligation; and

WHEREAS, COAH staff has reviewed the Borough's alternative Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, the Borough's alternative option proposes to address its two-unit rehabilitation share with two new construction credits to be completed by two group home bedrooms operated Allies, Inc; and

WHEREAS, the Borough's alternative option proposes to address its 21-unit prior round obligation with 12 credits and six rental bonuses for 12 group home bedrooms to be operated by Allies, Inc. and three credits for three age-restricted sale units in the VanCleaf inclusionary development; and

WHEREAS, Millstone's alternative option proposes to address its four-unit projected growth share obligation with two credits and one rental bonus for two family rental units operated by Allies, Inc. and one age-restricted rental unit in the VanCleaf inclusionary development; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on November 20, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of the Borough's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received comments from Shirley Bishop, PP on behalf of Millstone Borough(attached as Exhibit B and incorporated by reference herein); and

WHEREAS, as a result of the submitted comments an Addendum to the November 20, 2009 Compliance Report was prepared and is attached as Exhibit C that do not alter the Compliance Report that was issued on November 20, 2009; and

WHEREAS, Millstone has stated that it does not anticipate collecting any residential and non-residential fees over the course of the third round, because no fees are anticipated, Millstone does not require COAH approval of the Borough's spending plan; however in the event Millstone does collect fees, the Borough must obtain COAH approval of a spending plan.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by the Borough of Millstone comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to the Borough of Millstone; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), the Borough shall adopt all implementing Fair Share ordinances within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if the Borough fails to timely adopt its Fair Share ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Millstone shall submit all Fair Share ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Millstone shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Millstone's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Millstone's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Millstone and the number of units

required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4 or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, then the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Millstone shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Millstone's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of the Borough to provide for the realistic opportunity of its fair share of low- and moderate-income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was  
duly adopted by the Council on Affordable  
Housing at its public meeting on December 9, 2009

A handwritten signature in cursive script, reading "Reneé Reiss". The signature is written in black ink and is positioned above the printed name and title.

Reneé Reiss, Secretary  
Council on Affordable Housing



***Council on Affordable Housing  
Compliance Report  
November 20, 2009***



**Municipality:** *Millstone Borough*  
**County:** *Somerset County*

**COAH Region:** *3*  
**Planning Area:** *3*  
**Special Resource Area:** *n/a*

**Housing Element and Fair Share Plan Adopted:** *May 26, 2009*  
**Petition for 3<sup>rd</sup> Round Substantive Certification:** *July 6, 2009*  
**Completeness Determination:** *July 21, 2009*  
**Date of Publication:** *July 29, 2009*

**Objections Received:** *Yes*

**Petition Includes:**

**VLA:** *No*  
**GPA:** *No*  
**Waiver:** *No*

**Date of Site Visit:** *September 22, 2009*

**History of Approvals:**

	<b>COAH</b>	<b>JOC</b>	<b>N/A</b>
<b>First Round:</b>			<i>x</i>
<b>Second Round:</b>			<i>x</i>
<b>Extended Certification:</b>			<i>x</i>

**Plan Preparer:** *Shirley Bishop, PP*

**Municipal Housing Liaison:** *Denise Pisczkowski*

***SUMMARY OF FAIR SHARE OBLIGATION***

Rehabilitation Share	2
Prior Round Obligation	21
Projected Growth Share Obligation	4

***ACTUAL GROWTH and GROWTH SHARE through September 2008<sup>1</sup>***

<b>Res Units (#)</b>	<b>Actual Res Growth Share</b>	<b>Jobs (#)</b>	<b>Actual Non-Res Growth Share</b>	<b>Actual TOTAL Growth Share</b>
1	0 units	0	0 units	0 units

***COMPLIANCE PLAN SUMMARY***

<b>Obligation</b>	<b>Credit/ Mechanism Type</b>	<b># Units Completed</b>	<b># Units Proposed</b>	<b>TOTAL</b>
<b>Rehabilitation: 2 units</b>				
<b>Program</b>	New Construction Credits – Inclusionary Zoning Van Cleef		2	2
<b>Rehabilitation Subtotal</b>				<b>2</b>
<b>NEW CONSTRUCTION:</b>				
<b>Prior Round: 21 units</b>				
<b>Proposed Mechanism</b>	Inclusionary Zoning Van Cleef - Family		9	9
	Inclusionary Zoning Van Cleef – Age Restricted		6	6
<b>Prior Round Bonuses</b>	Rental		6	6
<b>Prior Round Subtotal</b>				<b>21</b>
<b>Growth Share: 4 units</b>				
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef		3	3
<b>Growth Share Bonus</b>	Rental		1	1
<b>Growth Share Subtotal</b>				<b>4</b>
<b>Surplus/Shortfall</b>				<b>0</b>

<sup>1</sup> This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

## **HOUSING ELEMENT**

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Millstone's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

### **A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Millstone has a rehabilitation share of 2 units.

### **B. Prior Round Obligation**

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Millstone has a prior round obligation of 21.

### **C. Projected Growth Share**

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of



N.J.A.C. 5:97, Millstone Borough has a residential projection of 14 units and a non-residential projection of 12 jobs, which results in an initial projected growth share obligation of four affordable units. Millstone Borough's total projected growth share for the period 1999-2018 is four affordable units consisting of a three-unit projected residential growth share and a one-unit projected non-residential growth share.<sup>2</sup>

#### **SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	2
Prior Round Obligation	21
Projected Growth Share Obligation	4

### **I. FAIR SHARE PLAN**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Millstone Borough's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

#### **A. Plan to Address Rehabilitation Share**

##### **Proposed Program to Address Rehabilitation Share**

##### ***Millstone Rehabilitation Program***

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<sup>2</sup> Pursuant to N.J.A.C. 5:97-2.2(d), Millstone's residential projection of 14 is divided by 5 to yield three units and the nonresidential projection of 12 jobs is divided by 16 to yield one unit. Millstone's total projected growth share is therefore four units (3+1).

Millstone Borough will utilize two new construction units in the form of two family units in the Van Cleef family rental development to address the two units of its rehabilitation obligation. The Borough has submitted two proposals to address the fair share obligation. Both options will address the rehabilitation obligation with credits from the Van Cleef family rental development. The proposed site is described further in this report in Section B under Proposed Affordable Housing Mechanisms.

**Proposed Rehabilitation Program**

<b>Rehabilitation Program</b>	<b>2 Units</b>
Van Cleef – new construction credits	2
<b>TOTAL</b>	<b>2</b>

**B. Plan to Address Prior Round Obligation**

**Prior Round Obligation Credits**

Millstone Borough's Housing Element and Fair Share Plan does not include any prior round obligation credits.

**Proposed Affordable Housing Mechanisms**

The Borough of Millstone and the Van Cleef Family Limited Partnership have been working towards an agreement since 2003. The Borough and Van Cleef executed an agreement on October 26, 2009 as to how to address the Borough's prior round affordable housing obligation and the Borough's projected growth share obligation. Millstone has set forth a primary proposal and a secondary proposal for addressing its affordable housing obligation. The executed agreement (Attachment A) provides that the decision as to which option to implement is at the developer's discretion.

Millstone's primary proposal is to address the 21-unit prior round obligation through the following mechanism:

### *Van Cleef Site*

Millstone Borough will utilize zoning on the Van Cleef site to address 23 credits of its prior round obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site, which was subsequently adopted on November 17, 2009. The site consisted of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 108 total units, 20 of which would be affordable. The site will provide 14 family rental units, eleven of which will be used to address the Borough's prior round obligation. The Borough is also entitled to receive six rental bonuses for the family rental units. Six of the units will be age-restricted sale units and will be applied to the prior round obligation.

There is a stream corridor with wetlands and buffers located on the site. The stream is not classified as a C-1, however there is a Delaware and Raritan Canal Commission 100-foot buffer around the 100-year flood line. The plan states that there is ample acreage to construct the units. After a GIS analysis, it was determined that approximately 32 acres were unencumbered for development.

Currently there are no sewers to the site and the New Jersey Department of Environmental Protection (NJDEP) approved water quality management plan, also known as a 208 plan, shows that no sewers are planned for the Borough. Proposed sewers will be built after Millstone is in an approved sewer service area. Somerset County has applied to the NJDEP to amend its 208 plan to include the Van Cleef site in its plan. A status update must be provided to COAH in 12 months as to the application to DEP for sewer service. **[eleven family, rental units, six age-restricted sale units and six family, rental bonuses]**

If Van Cleef determines that they will utilize the secondary proposal to address Millstone's affordable housing obligation, the Borough shall notify the Council by letter

of Van Cleef's intentions. Millstone's secondary proposal is to address the 21-unit prior round obligation through the following mechanisms:

***Allies, Inc. – Group Homes***

Allies, Inc. is an experienced group home provider. Van Cleef Family Limited Partnership and Riverside III LLC, will transfer approximately 4 acres from the Van Cleef site to Allies, Inc. to develop the group home units. The future Allies, Inc. site is located on Amwell Road. The site is in PA 3, but is part of a proposed Village Center Designation which is in Stage IV of the Plan Endorsement process. The current zoning is R-2, however the proposed zoning is D-112c Traditional Neighborhood Development.

The 14 group home bedrooms will be contained in two structures; 12 of the bedrooms will address the prior round obligation and two of the bedrooms will address the Borough's rehabilitation share. The site will have a third structure that will have two family units to be used to address the Borough's projected growth share obligation.

There is sufficient water capacity for the Allies, Inc. site. Water will be provided by New Jersey American Water. The group homes and family units will have septic systems.

Van Cleef Family Limited Partnership and Allies, Inc. have a draft agreement detailing the land transfer. The draft agreement must be executed and submitted to COAH upon execution. **[12 group home bedrooms and six rental bonuses]**

***Van Cleef Site***

Under the second implementation mechanism, Millstone Borough will utilize zoning on the Van Cleef site to address three units of its prior round obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site. The site consisted of two lots that have been combined to include

38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

This proposal for the site calls for 106 total units, four of which would be affordable. The site will provide four age-restricted sale units, three of which will be applied to the prior round and one of which will be applied to the growth share obligation.

There is a stream corridor with wetlands and buffers located on the site. The stream is not classified as a C-1, however there is a Delaware and Raritan Canal Commission 100-foot buffer around the 100-year flood line. The plan states that there are 32 acres to construct the units.

Currently there are no sewers to the site and the current 208 wastewater management plan shows that no sewers are planned for the Borough. Proposed sewers will be built after Millstone is in an approved sewer service area. Somerset County has applied to the New Jersey Department of Environmental Protection to amend its 208 plan to include the Van Cleef site in its plan. As a result, Millstone Borough is requesting a durational adjustment as per N.J.A.C. 5:97-5.4.

A status update must be provided to COAH in twelve months as to the application to DEP for sewer service. **[three age-restricted sale units]**

### **Proposed Prior Round Affordable Housing Mechanisms**

#### **Primary Option**

<b>Type/Name of Affordable Housing Mechanism</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
Van Cleef – Inclusionary	family rental	11	rental	6	17
Van Cleef – Inclusionary	age-restricted - sale	6			6

<b>TOTALS</b>	<b>17</b>		<b>6</b>	<b>23</b>
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**Prior Round Obligation Parameters**

Millstone has satisfied the applicable Prior Round parameters as follows:

**Prior Round Rental Obligation:<sup>3</sup> 6 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef – Inclusionary	family, rental	11
<b>TOTAL</b>		<b>11</b>

**Prior Round Age-Restricted Maximum<sup>4</sup> : 6 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef – Age-Restricted Inclusionary	sale	6
<b>TOTAL</b>		<b>6</b>

**Prior Round Rental Bonus Maximum<sup>5</sup> : 6 Units**

<b>Development/Project Name</b>	<b>Type of Bonus</b>	<b># Bonuses</b>
Van Cleef – Inclusionary	family, rental	6
<b>TOTAL</b>		<b>6</b>

**C. Plan to Address Projected Growth Share**

**Growth Share Obligation Credits**

<sup>3</sup> Rental Obligation: N.J.A.C. 5:97-3.10(b)1 .25 (Prior Round Obligation) = .25(21) = 6

<sup>4</sup> Age-Restricted Maximum: N.J.A.C. 5:97-3.10(c)1 .25 (Prior Round Obligation + Rehabilitation Share) = .25(21+3) = 6

<sup>5</sup> No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

Millstone Borough's Housing Element and Fair Share Plan does not include any growth share obligation credits.

**Proposed Affordable Housing Mechanisms**

Millstone proposes to address the four-unit growth share obligation through the following mechanism:

***Van Cleef***

Millstone Borough will utilize zoning on the Van Cleef site to address three units of its projected growth share obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site. The site consists of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 120 total units, three of which would be affordable family rental units to address the Borough's projected growth share obligation. See Section B, Plan to Address Prior Round Obligation, for a complete description of the site.  
**[three family rental units and one rental bonus]**

Millstone Borough proposes the following mechanisms as a secondary option to address its projected growth share obligation:

***Van Cleef***

Millstone Borough will utilize zoning on the Van Cleef site to address 1 unit of its projected growth share obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site which was subsequently adopted on November 17, 2009. The site consists of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 106 total units, 4 of which would be affordable. The site will provide 4 units: three age-restricted units for the prior round and one age-restricted unit to address the Borough's projected growth share obligation. See Section B, Plan to Address Prior Round Obligation, for a complete description of the site. **[one age-restricted, sale unit]**

***Allies, Inc. – Family Rentals***

Under this option, Van Cleef Family Limited Partnership and Riverside III LLC, will transfer approximately 4 acres from the Van Cleef site to Allies, Inc. to develop two family units. The future Allies, Inc. site is located on Amwell Road. The site is in PA 3, but is part of a proposed Village Center Designation in the Plan Endorsement process. The current zoning is R-2, however the proposed zoning is D-112c Traditional Neighborhood Development.

The site will have a structure that will have two family units to be used to address the Borough's projected growth share obligation. There will be two additional structures with 14 group home bedrooms.

There is sufficient water capacity for the Allies, Inc. site. Water will be provided by New Jersey American Water. The group homes and family units will have septic systems. **[2 family rental units and one rental bonus]**

**Proposed Growth Share Affordable Housing Mechanisms**

**Primary Option**

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Van Cleef	family rental	3	rental	1	4
<b>TOTALS</b>		<b>3</b>		<b>1</b>	<b>4</b>



**Growth Share Parameters**

Millstone Borough has satisfied the applicable Growth Share parameters as follows:

**Growth Share Rental Obligation:<sup>6</sup> 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	3
<b>TOTAL</b>		<b>3</b>

**Growth Share Family Rental Requirement<sup>7</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	3
<b>TOTAL</b>		<b>3</b>

**Growth Share Minimum Family Requirement<sup>8</sup> : 2 Units**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	3
<b>TOTAL</b>		<b>3</b>

<sup>6</sup> Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(4)= 1 units N.J.A.C. 5:97-3.10(b)3

<sup>7</sup> Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(1)= 1 units N.J.A.C. 5:97-3.4(b)

<sup>8</sup> Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(3)= 2 units N.J.A.C. 5:97-3.9

**Very Low Income Minimum Requirement<sup>9</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	1
<b>TOTAL</b>		<b>1</b>

**Age-Restricted Maximum<sup>10</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
n/a		0
<b>TOTAL</b>		<b>0</b>

**Bonus Maximum<sup>11</sup> : 1 Bonus**

Development/Project Name	Type of Bonus	# Bonuses
Van Cleef	rental	1
<b>TOTAL</b>		<b>1</b>

**Actual Growth Share Obligation**

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

<sup>9</sup> Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation) or .13(4)= 1 units pursuant to P.L.2008, c.46

<sup>10</sup> Projected Growth Share Age Restricted Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.10 (c) 2

<sup>11</sup> Projected Bonus Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.20 (b)

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Millstone issued certificates of occupancy for one housing unit and also for the non-residential square footage equivalent of zero jobs, yielding an actual growth share obligation through September 30, 2008, of zero affordable units.<sup>12</sup>

**D. Summary of Plan to Address Fair Share Obligation**

**REHABILITATION SHARE SUMMARY**

**Rehabilitation Share: 2 Units**

<b>Program Name</b>	<b>2 Units</b>
Van Cleef - family	2
<b>TOTAL</b>	<b>2</b>

**PRIOR ROUND SUMMARY**

**Prior Round Obligation: 21 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef – family	9	rental	6	15
	Inclusionary Zoning Van Cleef – age-restricted	6	-	0	6
<b>Subtotal</b>		<b>15</b>		<b>6</b>	<b>21</b>
<b>TOTAL</b>					<b>21</b>
<b>Surplus/Shortfall</b>					<b>0</b>

<sup>12</sup> The number of residential COs (1) is initially divided by 5 to yield 0 units and the number of jobs (0) is initially divided by 16 to yield 0 units. Millstone's total actual growth share is therefore 0 units (0 + 0). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

**GROWTH SHARE SUMMARY**  
**Projected Growth Share Obligation: 4 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef	3	rental	1	4
<b>Subtotal</b>		<b>3</b>		<b>1</b>	<b>4</b>
<b>TOTAL</b>					<b>4</b>
<b>Surplus/Shortfall</b>					<b>0</b>

**II. FAIR SHARE DOCUMENT REVIEW**

**A. Development Fee Ordinance**

Millstone Borough has a development fee ordinance that was approved by COAH on December 7, 2005, and adopted by the Borough on December 19, 2005. The Borough adopted an amendment to its development fee ordinance on January 20, 2009. The amendment states that it will not be imposed until approved by COAH. No fees have been imposed or collected. The amended development fee ordinance will be reviewed by COAH in a separate report.

**B. Third Round Spending Plan**

A third round spending plan was submitted by Millstone with the Borough's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

**C. Affordable Housing Ordinance/Affordable Housing Administration**

Millstone Borough has submitted a draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, which was amended on December 20, 2004. The draft proposed ordinance has been amended to include the compliance with barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 *et seq.*) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the Borough on May 21, 2007.

Millstone is responsible for the initial sale and rental of newly constructed affordable units within the Borough and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. Millstone has submitted a contract for its administrative entity for the proposed affordable units. Pursuant to N.J.A.C. 5:80-26.14(b), Millstone must submit a written operating manual for administering affordable units within the Borough within 45 days of COAH's grant of substantive certification and submit to COAH immediately upon adoption.

**D. Affirmative Marketing Plan**

Millstone has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the completed units in the Borough's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Borough within 45 days of COAH's grant of substantive certification and submitted to COAH.

### **III. MONITORING**

Millstone must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Borough's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Millstone in writing and the Borough may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Millstone's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Millstone and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

### **IV. SUMMARY OF OBJECTIONS AND MUNICIPAL RESPONSE**

An objection from Kenneth Meiser, esq. on behalf of Van Cleef Family Limited Partnership and Riverside III LLC was received on September 10, 2009. The objection stated that the Borough was not negotiating in good faith with Van Cleef Family Limited Partnership and Riverside III LLC. The objector believed that an agreement could be mediated with COAH's assistance.

A special joint meeting of the Borough's Planning Board and Governing Body was held on October 19, 2009. The Borough adopted and signed an agreement with Van Cleef Family Limited Partnership and Riverside III, LLC and as such, the objector has agreed to withdraw its objections because the agreement has been signed. The proposed ordinance was adopted on November 16, 2009.

**V. RECOMMENDATION**

COAH staff recommends that Millstone be granted third round substantive certification. Millstone must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.

## **Addendum to November 20, 2009 Compliance Report**

### **Millstone Borough / Somerset County**

The planner for Millstone Borough, Shirley Bishop, PP, requested that the following adjustments be made to the Borough's Compliance Report. These changes do not represent a substantial change to the Borough's Compliance Plan, only in the way that units are assigned to the prior round and the growth share round.

The proposal for the site is for 108 total units, 20 of which would be affordable. The site will provide 14 family rental units, twelve of which will be used to address the Borough's prior round obligation. The Borough is also entitled to receive six rental bonuses for the family rental units. Five of the units will be age-restricted sale units and will be applied to the prior round obligation.

### **Proposed Prior Round Affordable Housing Mechanisms**

#### **Primary Option**

<b>Type/Name of Affordable Housing Mechanism</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
Van Cleef – Inclusionary	family rental	12	rental	6	18
Van Cleef – Inclusionary	age-restricted - sale	5			5
<b>TOTALS</b>		<b>17</b>		<b>6</b>	<b>23</b>

#### **Prior Round Obligation Parameters**

Millstone has satisfied the applicable Prior Round parameters as follows:

**Prior Round Rental Obligation:<sup>1</sup> 6 Units**

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<sup>1</sup> Rental Obligation: N.J.A.C. 5:97-3.10(b)1 .25 (Prior Round Obligation) = .25(21) = 6



Development/Project Name	Type of Affordable Unit	# Units
Van Cleef – Inclusionary	family, rental	12
<b>TOTAL</b>		<b>12</b>

**Prior Round Age-Restricted Maximum<sup>2</sup> : 6 Units**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef – Age-Restricted Inclusionary	sale	5
<b>TOTAL</b>		<b>5</b>

**Prior Round Rental Bonus Maximum<sup>3</sup> : 6 Units**

Development/Project Name	Type of Bonus	# Bonuses
Van Cleef – Inclusionary	family, rental	6
<b>TOTAL</b>		<b>6</b>

The proposal for the site is for 108 total units, two of which would be affordable family rental units and one age-restricted sales to address the Borough’s projected growth share obligation.

**Proposed Growth Share Affordable Housing Mechanisms**

**Primary Option**

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Van Cleef	family rental	2	rental	1	3

<sup>2</sup> Age-Restricted Maximum: N.J.A.C. 5:97-3.10(c)1 .25 (Prior Round Obligation + Rehabilitation Share) = .25(21+3) = 6

<sup>3</sup> No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

Van Cleef	age-restricted sale	1			1
<b>TOTALS</b>		<b>3</b>		<b>1</b>	<b>4</b>

### **Growth Share Parameters**

Millstone Borough has satisfied the applicable Growth Share parameters as follows:

#### **Growth Share Rental Obligation:<sup>4</sup> 1 Unit**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef	family	3
<b>TOTAL</b>		<b>3</b>

#### **Growth Share Family Rental Requirement<sup>5</sup> : 1 Unit**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef	family	2
<b>TOTAL</b>		<b>2</b>

#### **Growth Share Minimum Family Requirement<sup>6</sup> : 2 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef	family	2
<b>TOTAL</b>		<b>2</b>

<sup>4</sup> Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(4)= 1 units N.J.A.C. 5:97-3.10(b)3

<sup>5</sup> Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(1)= 1 units N.J.A.C. 5:97-3.4(b)

<sup>6</sup> Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(3)= 2 units N.J.A.C. 5:97-3.9

**Very Low Income Minimum Requirement<sup>7</sup> : 1 Unit**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef	family	1
<b>TOTAL</b>		<b>1</b>

**Age-Restricted Maximum<sup>8</sup> : 1 Unit**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Van Cleef	sale	1
<b>TOTAL</b>		<b>1</b>

**Bonus Maximum<sup>9</sup>: 1 Bonus**

<b>Development/Project Name</b>	<b>Type of Bonus</b>	<b># Bonuses</b>
Van Cleef	rental	1
<b>TOTAL</b>		<b>1</b>

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<sup>7</sup> Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation) or .13(4)= 1 units pursuant to P.L.2008, c.46

<sup>8</sup> Projected Growth Share Age Restricted Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.10 (c) 2

<sup>9</sup> Projected Bonus Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.20 (b)

# SHIRLEY M. BISHOP, P.P., LLC

Housing and Planning Consulting

Princeton Pike Corporate Center  
993 Lenox Drive, Suite 200  
Lawrenceville, New Jersey 08648

Tel: (609) 844-7720  
Fax: (609) 844-7722  
Email: Shirleymbishop@aol.com

December 3, 2009

Lucy Vandenberg, Executive Director  
Council on Affordable Housing  
101 South Broad Street  
P.O. Box 813  
Trenton, NJ 08625

**Re: Millstone Borough / Somerset County**

Dear Ms. Vandenberg:

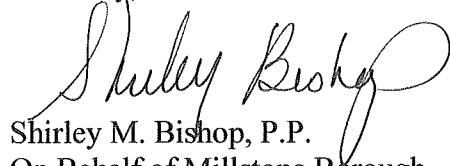
I have reviewed the COAH Compliance Report with Millstone Borough and there is a discrepancy regarding the allocation and distribution of the affordable housing units. The overall number remains unchanged, but the internal distribution needs to be revised.

As a result and in order to move this forward, Pamela Weintraub, the COAH planner assigned to Millstone Borough, and I have discussed this and have revised the numbers accordingly. The attached report contains the revisions in the tracking mode.

I understand that the revisions will be considered an addendum to the Compliance Report.

Thank you for your attention to this matter.

Sincerely,



Shirley M. Bishop, P.P.  
On Behalf of Millstone Borough

C: Pamela Weintraub  
Gerald Muller, Esq.  
Steven Offen, Esq.  
Kenneth Meiser, Esq.  
Robert Heibell



***Council on Affordable Housing  
Compliance Report  
November 20, 2009***



**Municipality:** *Millstone Borough*  
**County:** *Somerset County*

**COAH Region:** *3*  
**Planning Area:** *3*  
**Special Resource Area:** *n/a*

**Housing Element and Fair Share Plan Adopted:** *May 26, 2009*  
**Petition for 3<sup>rd</sup> Round Substantive Certification:** *July 6, 2009*  
**Completeness Determination:** *July 21, 2009*  
**Date of Publication:** *July 29, 2009*

**Objections Received:** *Yes*

**Petition Includes:**

**VLA:** *No*  
**GPA:** *No*  
**Waiver:** *No*

**Date of Site Visit:** *September 22, 2009*

**History of Approvals:**

	<b>COAH</b>	<b>JOC</b>	<b>N/A</b>
<b>First Round:</b>			<i>x</i>
<b>Second Round:</b>			<i>x</i>
<b>Extended Certification:</b>			<i>x</i>

**Plan Preparer:** *Shirley Bishop, PP*

**Municipal Housing Liaison:** *Denise Pisczkowski*

***SUMMARY OF FAIR SHARE OBLIGATION***

Rehabilitation Share	2
Prior Round Obligation	21
Projected Growth Share Obligation	4

***ACTUAL GROWTH and GROWTH SHARE through September 2008<sup>1</sup>***

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
1	0 units	0	0 units	0 units

***COMPLIANCE PLAN SUMMARY***

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
<b>Rehabilitation: 2 units</b>				
<b>Program</b>	New Construction Credits – Inclusionary Zoning Van Cleef		2	2
<b>Rehabilitation Subtotal</b>				<b>2</b>
<b>NEW CONSTRUCTION:</b>				
<b>Prior Round: 21 units</b>				
<b>Proposed Mechanism</b>	Inclusionary Zoning Van Cleef - Family		9	9
	Inclusionary Zoning Van Cleef – Age Restricted		6	6
<b>Prior Round Bonuses</b>	Rental		6	6
<b>Prior Round Subtotal</b>				<b>21</b>
<b>Growth Share: 4 units</b>				
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef		3	3
<b>Growth Share Bonus</b>	Rental		1	1
<b>Growth Share Subtotal</b>				<b>4</b>
<b>Surplus/Shortfall</b>				<b>0</b>

<sup>1</sup> This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

## **HOUSING ELEMENT**

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Millstone's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

### **A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Millstone has a rehabilitation share of 2 units.

### **B. Prior Round Obligation**

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Millstone has a prior round obligation of 21.

### **C. Projected Growth Share**

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of

N.J.A.C. 5:97, Millstone Borough has a residential projection of 14 units and a non-residential projection of 12 jobs, which results in an initial projected growth share obligation of four affordable units. Millstone Borough's total projected growth share for the period 1999-2018 is four affordable units consisting of a three-unit projected residential growth share and a one-unit projected non-residential growth share.<sup>2</sup>

**SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	2
Prior Round Obligation	21
Projected Growth Share Obligation	4

**I. FAIR SHARE PLAN**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Millstone Borough's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

**A. Plan to Address Rehabilitation Share**

**Proposed Program to Address Rehabilitation Share**

***Millstone Rehabilitation Program***

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<sup>2</sup> Pursuant to N.J.A.C. 5:97-2.2(d), Millstone's residential projection of 14 is divided by 5 to yield three units and the nonresidential projection of 12 jobs is divided by 16 to yield one unit. Millstone's total projected growth share is therefore four units (3+1).



Millstone Borough will utilize two new construction units in the form of two family units in the Van Cleef family rental development to address the two units of its rehabilitation obligation. The Borough has submitted two proposals to address the fair share obligation. Both options will address the rehabilitation obligation with credits from the Van Cleef family rental development. The proposed site is described further in this report in Section B under Proposed Affordable Housing Mechanisms.

**Proposed Rehabilitation Program**

<b>Rehabilitation Program</b>	<b>2 Units</b>
Van Cleef – new construction credits	2
<b>TOTAL</b>	<b>2</b>

**B. Plan to Address Prior Round Obligation**

**Prior Round Obligation Credits**

Millstone Borough's Housing Element and Fair Share Plan does not include any prior round obligation credits.

**Proposed Affordable Housing Mechanisms**

The Borough of Millstone and the Van Cleef Family Limited Partnership have been working towards an agreement since 2003. The Borough and Van Cleef executed an agreement on October 26, 2009 as to how to address the Borough's prior round affordable housing obligation and the Borough's projected growth share obligation. Millstone has set forth a primary proposal and a secondary proposal for addressing its affordable housing obligation. The executed agreement (Attachment A) provides that the decision as to which option to implement is at the developer's discretion.

Millstone's primary proposal is to address the 21-unit prior round obligation through the following mechanism:

### *Van Cleef Site*

Millstone Borough will utilize zoning on the Van Cleef site to address 23 credits of its prior round obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site, which was subsequently adopted on November 17, 2009. The site consisted of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 108 total units, 20 of which would be affordable. The site will provide 14 family rental units, twelve of which will be used to address the Borough's prior round obligation. The Borough is also entitled to receive six rental bonuses for the family rental units. Five of the units will be age-restricted sale units and will be applied to the prior round obligation.

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There is a stream corridor with wetlands and buffers located on the site. The stream is not classified as a C-1, however there is a Delaware and Raritan Canal Commission 100-foot buffer around the 100-year flood line. The plan states that there is ample acreage to construct the units. After a GIS analysis, it was determined that approximately 32 acres were unencumbered for development.

Currently there are no sewers to the site and the New Jersey Department of Environmental Protection (NJDEP) approved water quality management plan, also known as a 208 plan, shows that no sewers are planned for the Borough. Proposed sewers will be built after Millstone is in an approved sewer service area. Somerset County has applied to the NJDEP to amend its 208 plan to include the Van Cleef site in its plan. A status update must be provided to COAH in 12 months as to the application to DEP for sewer service. **[twelve family, rental units, five age-restricted sale units and six family, rental bonuses]**

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If Van Cleef determines that they will utilize the secondary proposal to address Millstone's affordable housing obligation, the Borough shall notify the Council by letter

of Van Cleef's intentions. Millstone's secondary proposal is to address the 21-unit prior round obligation through the following mechanisms:

***Allies, Inc. – Group Homes***

Allies, Inc. is an experienced group home provider. Van Cleef Family Limited Partnership and Riverside III LLC, will transfer approximately 4 acres from the Van Cleef site to Allies, Inc. to develop the group home units. The future Allies, Inc. site is located on Amwell Road. The site is in PA 3, but is part of a proposed Village Center Designation which is in Stage IV of the Plan Endorsement process. The current zoning is R-2, however the proposed zoning is D-112c Traditional Neighborhood Development.

The 14 group home bedrooms will be contained in two structures; 12 of the bedrooms will address the prior round obligation and two of the bedrooms will address the Borough's rehabilitation share. The site will have a third structure that will have two family units to be used to address the Borough's projected growth share obligation.

There is sufficient water capacity for the Allies, Inc. site. Water will be provided by New Jersey American Water. The group homes and family units will have septic systems.

Van Cleef Family Limited Partnership and Allies, Inc. have a draft agreement detailing the land transfer. The draft agreement must be executed and submitted to COAH upon execution. **[12 group home bedrooms and six rental bonuses]**

***Van Cleef Site***

Under the second implementation mechanism, Millstone Borough will utilize zoning on the Van Cleef site to address three units of its prior round obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site. The site consisted of two lots that have been combined to include

38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

This proposal for the site calls for 90 market rate units and 20 affordable units, treating the group home bedrooms as units. The site will include four age-restricted sale units, three of which will be applied to the prior round and one of which will be applied to the growth share obligation.

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There is a stream corridor with wetlands and buffers located on the site. The stream is not classified as a C-1, however there is a Delaware and Raritan Canal Commission 100-foot buffer around the 100-year flood line. The plan states that there are 32 acres to construct the units.

Currently there are no sewers to the site and the current 208 wastewater management plan shows that no sewers are planned for the Borough. Proposed sewers will be built after Millstone is in an approved sewer service area. Somerset County has applied to the New Jersey Department of Environmental Protection to amend its 208 plan to include the Van Cleef site in its plan. As a result, Millstone Borough is requesting a durational adjustment as per N.J.A.C. 5:97-5.4.

A status update must be provided to COAH in twelve months as to the application to DEP for sewer service. **[three age-restricted sale units]**

### Proposed Prior Round Affordable Housing Mechanisms

#### Primary Option

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Van Cleef – Inclusionary	family rental	12	rental	6	18
Van Cleef – Inclusionary	age-restricted - sale	5			5

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<b>TOTALS</b>	<b>17</b>		<b>6</b>	<b>23</b>
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**Prior Round Obligation Parameters**

Millstone has satisfied the applicable Prior Round parameters as follows:

**Prior Round Rental Obligation:<sup>3</sup> 6 Units**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef – Inclusionary	family, rental	12
<b>TOTAL</b>		<b>12</b>

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**Prior Round Age-Restricted Maximum<sup>4</sup> : 6 Units**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef – Age-Restricted Inclusionary	sale	5
<b>TOTAL</b>		<b>5</b>

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**Prior Round Rental Bonus Maximum<sup>5</sup> : 6 Units**

Development/Project Name	Type of Bonus	# Bonuses
Van Cleef – Inclusionary	family, rental	6
<b>TOTAL</b>		<b>6</b>

**C. Plan to Address Projected Growth Share**

**Growth Share Obligation Credits**

<sup>3</sup> Rental Obligation: N.J.A.C. 5:97-3.10(b)1 .25 (Prior Round Obligation) = .25(21) = 6

<sup>4</sup> Age-Restricted Maximum: N.J.A.C. 5:97-3.10(c)1 .25 (Prior Round Obligation + Rehabilitation Share) = .25(21+3) = 6

<sup>5</sup> No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

Millstone Borough's Housing Element and Fair Share Plan does not include any growth share obligation credits.

#### **Proposed Affordable Housing Mechanisms**

Millstone proposes to address the four-unit growth share obligation through the following mechanism:

##### ***Van Cleef***

Millstone Borough will utilize zoning on the Van Cleef site to address three units of its projected growth share obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site. The site consists of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 108 total units, two of which would be affordable family rental units and one age-restricted sales unit to address the Borough's projected growth share obligation. See Section B, Plan to Address Prior Round Obligation, for a complete description of the site. [two family rental units, one rental bonus and one age-restricted sale unit]

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Millstone Borough proposes the following mechanisms as a secondary option to address its projected growth share obligation:

##### ***Van Cleef***

Millstone Borough will utilize zoning on the Van Cleef site to address 1 unit of its projected growth share obligation. The Van Cleef site is currently zoned R-2. The Borough submitted a draft version of the proposed zoning for the site which was subsequently adopted on November 17, 2009. The site consists of two lots that have been combined to include 38.58 acres of property located at Block 8, Lot 1. The site is bordered by Amwell Road (County Route 514) north of the stream and Amsterdam Road, south of the stream.

The proposal for the site is for 90 market rate units and 20 affordable units, treating the group home bedrooms as units. The site will provide 4 units: three age-restricted units for the prior round and one age-restricted unit to address the Borough's projected growth share obligation. See Section B, Plan to Address Prior Round Obligation, for a complete description of the site. [one age-restricted, sale unit]

**Deleted:** 106 total units, 4 of which would be affordable.

### *Allies, Inc. – Family Rentals*

Under this option, Van Cleef Family Limited Partnership and Riverside III LLC, will transfer approximately 4 acres from the Van Cleef site to Allies, Inc. to develop two family units. The future Allies, Inc. site is located on Amwell Road. The site is in PA 3, but is part of a proposed Village Center Designation in the Plan Endorsement process. The current zoning is R-2, however the proposed zoning is D-112c Traditional Neighborhood Development.

The site will have a structure that will have two family units to be used to address the Borough's projected growth share obligation. There will be two additional structures with 14 group home bedrooms.

There is sufficient water capacity for the Allies, Inc. site. Water will be provided by New Jersey American Water. The group homes and family units will have septic systems. [2 family rental units and one rental bonus]

### **Proposed Growth Share Affordable Housing Mechanisms**

#### **Primary Option**

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Van Cleef	family rental	2	rental	1	3
Van Cleef	age-restricted	1			1

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		<u>sale</u>				
<b>TOTALS</b>			<b>3</b>		<b>1</b>	<b>4</b>

**Growth Share Parameters**

Millstone Borough has satisfied the applicable Growth Share parameters as follows:

**Growth Share Rental Obligation:<sup>6</sup> 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	<u>2</u>
<b>TOTAL</b>		<u>2</u>

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**Growth Share Family Rental Requirement<sup>7</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	<u>2</u>
<b>TOTAL</b>		<u>2</u>

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**Growth Share Minimum Family Requirement<sup>8</sup> : 2 Units**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	<u>2</u>
<b>TOTAL</b>		<u>2</u>

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<sup>6</sup> Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(4)= 1 units N.J.A.C. 5:97-3.10(b)3

<sup>7</sup> Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(1)= 1 units N.J.A.C. 5:97-3.4(b)

<sup>8</sup> Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(3)= 2 units N.J.A.C. 5:97-3.9





**Very Low Income Minimum Requirement<sup>9</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	family	1
<b>TOTAL</b>		<b>1</b>

**Age-Restricted Maximum<sup>10</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Van Cleef	sale	1
<b>TOTAL</b>		<b>1</b>

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**Bonus Maximum<sup>11</sup>: 1 Bonus**

Development/Project Name	Type of Bonus	# Bonuses
Van Cleef	rental	1
<b>TOTAL</b>		<b>1</b>

**Actual Growth Share Obligation**

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will

<sup>9</sup> Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation) or .13(4)= 1 units pursuant to P.L.2008, c.46

<sup>10</sup> Projected Growth Share Age Restricted Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.10 (c) 2

<sup>11</sup> Projected Bonus Maximum: .25(Projected Growth Share) or .25(4)= 1 unit N.J.A.C. 5:97-3.20 (b)

compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Millstone issued certificates of occupancy for one housing unit and also for the non-residential square footage equivalent of zero jobs, yielding an actual growth share obligation through September 30, 2008, of zero affordable units.<sup>12</sup>

**D. Summary of Plan to Address Fair Share Obligation**

**REHABILITATION SHARE SUMMARY**

**Rehabilitation Share: 2 Units**

Program Name	2 Units
Van Cleef - family	2
<b>TOTAL</b>	<b>2</b>

**PRIOR ROUND SUMMARY**

**Prior Round Obligation: 21 Units**

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef – family	10	rental	6	16
	Inclusionary Zoning Van Cleef – age- restricted	5	-	0	5
<b>Subtotal</b>		<b>15</b>		<b>6</b>	<b>21</b>
<b>TOTAL</b>					<b>21</b>

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<sup>12</sup> The number of residential COs (1) is initially divided by 5 to yield 0 units and the number of jobs (0) is initially divided by 16 to yield 0 units. Millstone's total actual growth share is therefore 0 units (0 + 0).

**Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

<b>Surplus/Shortfall</b>	<b>0</b>
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**GROWTH SHARE SUMMARY**  
**Projected Growth Share Obligation: 4 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	Inclusionary Zoning Van Cleef	3	rental	1	4
	<b>Subtotal</b>	<b>3</b>		<b>1</b>	<b>4</b>
<b>TOTAL</b>					<b>4</b>
<b>Surplus/Shortfall</b>					<b>0</b>

**II. FAIR SHARE DOCUMENT REVIEW**

**A. Development Fee Ordinance**

Millstone Borough has a development fee ordinance that was approved by COAH on December 7, 2005, and adopted by the Borough on December 19, 2005. The Borough adopted an amendment to its development fee ordinance on January 20, 2009. The amendment states that it will not be imposed until approved by COAH. No fees have been imposed or collected. The amended development fee ordinance will be reviewed by COAH in a separate report.

**B. Third Round Spending Plan**

A third round spending plan was submitted by Millstone with the Borough's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

**C. Affordable Housing Ordinance/Affordable Housing Administration**

Millstone Borough has submitted a draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has been amended to include the compliance with barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the Borough on May 21, 2007.

Millstone is responsible for the initial sale and rental of newly constructed affordable units within the Borough and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. Millstone has submitted a contract for its administrative entity for the proposed affordable units. Pursuant to N.J.A.C. 5:80-26.14(b), Millstone must submit a written operating manual for administering affordable units within the Borough within 45 days of COAH's grant of substantive certification and submit to COAH immediately upon adoption.

**D. Affirmative Marketing Plan**

Millstone has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the completed units in the Borough's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Borough within 45 days

of COAH's grant of substantive certification and submitted to COAH.

### **III. MONITORING**

Millstone must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Borough's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Millstone in writing and the Borough may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Millstone's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Millstone and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

### **IV. SUMMARY OF OBJECTIONS AND MUNICIPAL RESPONSE**

An objection from Kenneth Meiser, esq. on behalf of Van Cleef Family Limited Partnership and Riverside III LLC was received on September 10, 2009. The objection stated that the Borough was not negotiating in good faith with Van Cleef Family Limited

Partnership and Riverside III LLC. The objector believed that an agreement could be mediated with COAH's assistance.

A special joint meeting of the Borough's Planning Board and Governing Body was held on October 19, 2009. The Borough adopted and signed an agreement with Van Cleef Family Limited Partnership and Riverside III, LLC and as such, the objector has agreed to withdraw its objections because the agreement has been signed. The proposed ordinance was adopted on November 16, 2009.

**V. RECOMMENDATION**

COAH staff recommends that Millstone be granted third round substantive certification. Millstone must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.